

ASSEMBLY BILL

No. 1397

Introduced by Assembly Member Soto

February 23, 2007

An act to amend Sections 1417.2 and 1417.3 of, and to add Section 1417.6 to, the Health and Safety Code, relating to long-term health care facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1397, as introduced, Soto. Long-term health care facilities.

Existing law provides for the licensure of long-term health care facilities by the State Department of Health Services. Effective July 1, 2007, these duties will be transferred to the State Department of Public Health. Under existing law, the Long-Term Care, Health, Safety, and Security Act of 1973, the department may assess penalties for violation of prescribed requirements. Moneys collected as a result of the penalties imposed pursuant to these provisions are required to be deposited into the Health Facilities Citation Penalties Account, which may be used, upon appropriation by the Legislature, for the protection of health or property of residents of long-term health care facilities, including reimbursing residents for personal funds lost and costs associated with informational meetings.

This bill would also authorize the funds in the account to be used, upon appropriation, for the promotion of the quality of care and quality of life for residents, clients, and patients in these facilities, as specified. The bill would require the department to establish a long-term health care facility advisory group to advise the department on priorities for the use of these funds for projects for this purpose. The bill would also

require the department to post on its Internet Web site prescribed information about the funds in the account.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature hereby finds and declares all of
2 the following:

3 (a) Congress passed the Nursing Home Reform Act which
4 allowed the government to issue sanctions against nursing homes
5 that failed to comply with federal Medicare and Medicaid quality
6 of care requirements.

7 (b) Civil money penalties are one type of sanction established
8 by the federal government to encourage nursing homes to comply
9 with federal requirements and to prevent poor quality of care.

10 (c) The federal government contracts with state licensing and
11 certification to inspect nursing homes and to issue civil money
12 penalties for violations of federal conditions of participation.

13 (d) Moneys collected as a result of civil penalties imposed as a
14 result of violations of federal and state statutes are deposited into
15 a separate account which is established in the Special Deposit Fund
16 pursuant to Section 16370 of the Government Code.

17 (e) These civil money penalties offer an opportunity to make
18 the lives of nursing home residents better by providing additional
19 resources to the state to improve the quality of care and quality of
20 life for residents.

21 (f) In 2002, the federal Centers for Medicare and Medicaid
22 Services provided guidance to ensure that states use civil money
23 penalty funds in accordance with federal law while allowing
24 flexibility in the use of the funds.

25 (g) The written guidance to states allowed civil money penalty
26 funds to be used to prevent continued noncompliance by nursing
27 facilities through educational or other means and to authorize the
28 use of the moneys for any project that directly benefits facility
29 residents.

30 SEC. 2. Section 1417.2 of the Health and Safety Code is
31 amended to read:

32 1417.2. (a) Notwithstanding Section 1428, moneys collected
33 as a result of civil penalties imposed under this chapter shall be

deposited into an account which is hereby established in the Special Deposit Fund ~~under the provisions of~~ *subject to* Section 16370 of the Government Code. This account is titled the Health Facilities Citation Penalties Account and shall, upon appropriation by the Legislature, be used for the *promotion of the quality of care and quality of life for residents, clients, and patients in long-term health care facilities pursuant to Sections 1417.3 and 1417.6, as well as for the* protection of health or property of residents of long-term health care facilities, including, but not limited to, the following:

(1) Relocation expenses incurred by the state department, in the event of a facility closure.

(2) Maintenance of facility operation pending correction of deficiencies or closure, such as temporary management or receivership, in the event that the revenues of the facility are insufficient.

(3) Reimbursing residents for personal funds lost. In the event that the loss is a result of the actions of a long-term health care facility or its employees, the revenues of the facility shall first be used.

(4) The costs associated with informational meetings required under Section 1327.2.

(b) Notwithstanding subdivision (a), the balance in the Health Facilities Citation Penalties Account shall not, at any time, exceed ten million dollars (\$10,000,000).

(c) *The department shall post on its Internet Web site, on a quarterly basis, all of the following regarding the funds in the Health Facilities Citation Penalties Account:*

(1) *The specific sources of funds deposited into the account.*

(2) *The amount of funds in the account that have not been allocated.*

(3) *A detailed description of how funds in the account have been allocated and expended, including, but not limited to, the names of any persons or entities that received the funds, the amount of any salaries paid to temporary managers, and a description of any equipment purchased with the funds.*

SEC. 3. Section 1417.3 of the Health and Safety Code is amended to read:

1417.3. (a) The department shall promote quality of care and quality of life for residents, clients, and patients in long-term health

1 care facility services through specific activities that include, but
2 are not limited to, all of the following:

3 ~~(a)~~

4 *(1) Research and evaluation of innovative facility resident care*
5 *models.*

6 ~~(b) (1)~~

7 *(2) Provision of statewide training on effective facility practices.*

8 ~~(2) Training also shall include~~

9 *(3) Provision of statewide training on topics related to the*
10 *provision of quality of care and quality of life for facility residents.*
11 *The topics for training shall be identified by the department through*
12 *a periodic survey. The curriculum for the training provided under*
13 *this paragraph shall be developed in consultation with*
14 *representatives from provider associations, consumer associations,*
15 *and others, as deemed appropriate by the state department.*

16 ~~(e)~~

17 *(4) The establishment of separate units to respond to facility*
18 *requests for technical assistance regarding licensing and*
19 *certification requirements, compliance with federal and state*
20 *standards, and related operational issues.*

21 *(5) Remediation of the poor quality of care provided by specific*
22 *long-term health care facilities, including the use of temporary*
23 *managers and receivers.*

24 *(6) Provision of support to the State Long-Term Care*
25 *Ombudsman program, including resources for the education and*
26 *training of ombudsman volunteers.*

27 ~~(d)~~

28 *(b) State employees providing technical assistance to facilities*
29 *pursuant to this section are only required to report violations they*
30 *discover during the provision of the assistance to the appropriate*
31 *district office if the violations constitute an immediate and serious*
32 *threat to the health and welfare of, or have resulted in actual harm*
33 *to, patients, residents, or clients of the facility.*

34 ~~(e)~~

35 *(c) The state department shall measure facility satisfaction and*
36 *the effectiveness of the technical assistance provided pursuant to*
37 *subdivision (e) paragraph (4) of subdivision (a).*

38 ~~(f)~~

39 *(d) No person employed in the technical assistance or training*
40 *units under subdivisions (b) and (e) paragraphs (2) to (4), inclusive,*

1 *of subdivision (a)* shall also participate in the licensing, surveying,
2 or direct regulation of facilities.

3 ~~(g)~~

4 (e) This section shall not diminish the department's ongoing
5 survey and enforcement process.

6 SEC. 4. Section 1417.6 is added to the Health and Safety Code,
7 to read:

8 1417.6. (a) The department shall establish a long-term health
9 care facility advisory group of long-term health care facility
10 stakeholders to advise the department on priorities for the use of
11 funds in the Health Facilities Citation Penalties Account for
12 projects to promote the quality of care and quality of life for
13 residents, clients, and patients in long-term health care facilities
14 pursuant to Section 1417.3. The projects shall be required to do
15 all of the following:

16 (1) Make a substantial and meaningful impact on residents.

17 (2) Provide for sustainability or replication by others after
18 funding from the account ends.

19 (3) Improve the quality of life for residents.

20 (4) Encourage person-directed care.

21 (5) Promote consumer advocacy and involvement.

22 (6) Stimulate and support the spread of culture change.

23 (7) Demonstrate the organizational and financial commitment
24 of the person or entity that administers the project.

25 (b) The department shall establish a public application process
26 for funds in the Health Facilities Citation Penalties Account to be
27 used to fund innovative projects. The process shall include public
28 notice, an annual application timeline, and an objective review of
29 applications received.

30 (c) Each project that is approved for funding shall provide the
31 department, the advisory group, and the public with performance
32 outcomes and evaluations of the project.

33 (d) Not more than one million dollars (\$1,000,000) from the
34 Health Facilities Citation Penalties Account may be expended for
35 the purposes of this section.